

### **REMARKS/ARGUMENTS**

The foregoing amendments and these remarks are in response to the Office Action, mailed July 23, 2010. No fees are believed due in connection with this response; however, the Director is authorized to charge any fees which may be required in connection with this response to Deposit Account No. 14-1437.

At the time of the Office Action, claims 1, 3-16, 18-24, 26 and 27 were pending. By way of this amendment, claims 1, 3-13, 20-24, 26 and 27 remain in the case. Claims 14, 16-18 and 19 are cancelled in this paper. Claims 1, 20 and 27 have been amended in view of the Office Action and to better define what the Applicants consider their invention, as fully supported by an enabling disclosure. No new matter has been added. Reconsideration in view of the following remarks and entry of the foregoing amendments are respectfully requested.

### **REJECTIONS UNDER 35 U.S.C. § 112, ¶1**

Claims 14-16, 18 and 19 were rejected under 35 U.S.C. § 112, ¶1 as being based on a disclosure that is not enabling. Applicants do not agree with the rejection. Nonetheless, solely in order to expedite prosecution of the application, Applicants cancel claims 14-16, 18 and 19 without prejudice. As a result, the rejection of claims 14-16, 18 and 19 under 35 U.S.C. § 112, ¶1 is moot. The cancellation of these claims should not be construed as an indication of Applicants' agreement with or acquiescence to the Examiner's position. Accordingly, Applicants expressly maintain the right to pursue the subject matter of these claims through subsequent amendments, continuation or divisional applications, reexamination or reissue proceedings, and all other available means.

Claims 20-24 and 26 were rejected under 35 U.S.C. § 112, ¶1 as based on a disclosure that is not enabling. The Examiner noted that "The step of submitting the flow of clay solution to a region of obstacles is critical or essential to the practice of the invention, but not included in the claim(s). Such an omission is not enabled by the disclosure." Applicants do not agree with the rejection. Nonetheless, solely in order to expedite prosecution of the application, Applicants

amend claim 20 to recite that the method comprises submitting the flow of clay solution to breaking impacts in a region of obstacles, as requested by the Examiner.

In view of the above, it is respectfully requested that Examiner reconsider and withdraw the rejection of claims 20-24 and 26 under 35 U.S.C. § 112, ¶1.

#### **REJECTIONS UNDER 35 U.S.C. § 112, ¶2**

Claims 14-16, 18 and 19 have been rejected under 35 U.S.C. § 112, ¶2 as being incomplete for omitting essential elements. Applicants do not agree with the rejection. Nonetheless, solely in order to expedite prosecution of the application, Applicants cancel claims 14-16, 18 and 19 without prejudice. As a result, the rejection of claims 14-16, 18 and 19 under 35 U.S.C. § 112, ¶2 is moot. The cancellation of these claims should not be construed as an indication of Applicants' agreement with or acquiescence to the Examiner's position. Accordingly, Applicants expressly maintain the right to pursue the subject matter of these claims through subsequent amendments, continuation or divisional applications, reexamination or reissue proceedings, and all other available means.

Claims 20-24 and 26 have been rejected under 35 U.S.C. § 112, ¶2 as being incomplete for omitting essential elements. Applicants do not agree with the rejection. Nonetheless, solely in order to expedite prosecution of the application, Applicants amend claim 20, as set forth in the Listing of Claims above. Specifically, claim 20 has been amended to recite in step b), generating a flow of clay solution and submitting said flow to: (1) high pressure, (2) high velocity and breaking impacts in a region of obstacles; and to: (3) a sudden lower pressure, yielding a dispersed clay solution having a fine and homogeneous distribution of clay particles of a dimension in the nanometer range in the clay solution, as supported in the application as filed at paragraph [0054] and as requested by the Examiner. In light of these amendments, reconsideration and withdrawal of the rejection of claims 20-24 and 26 under 35 U.S.C. § 112, ¶2 is respectfully requested.

Claim 27 has been rejected under 35 U.S.C. § 112, ¶2 as being indefinite for failing to

particularly point out and distinctly claim the subject matter. Specifically, the Examiner noted that the recitation of "the method" of claim 23 lacks antecedent basis because claim 23 is directed to a modified epoxy. Applicants respectfully traverse the rejection by amending claim 27 to change its dependency from claim 23 to claim 13, as indicated by the Examiner. Reconsideration and withdrawal of the rejection of claim 23 under 35 U.S.C. § 112, ¶2 is respectfully requested.

### **CLAIM OBJECTIONS**

Claims 1, 3-16, 18-24, 26 and 27 were objected to because of informalities. Applicants amend the claims: 1) to introduce the agglomerates in step a) in the method claims; 2) to introduce the agglomerates in container a) in the apparatus claims; and 3) to introduce the agglomerates in step a) in the product-by-process claims, as requested by the Examiner.

In view of the foregoing, it is respectfully requested that Examiner reconsider and withdraw the objections to the claims.

### **REJECTIONS UNDER 35 U.S.C. § 102(a) AND (e)**

Claims 14-16, 18 and 19 have been rejected under 35 U.S.C. § 102(a) and 35 U.S.C. § 102(e) as being anticipated by Guraya (US 2003/0026888). Solely in order to expedite prosecution of the application, Applicants have cancelled claims 14-16, 18 and 19 without prejudice. As a result, the rejections of claims 14-16, 18 and 19 under 35 U.S.C. §§ 102(a), (e) are moot. The cancellation of these claims should not be construed as an indication of Applicants' agreement with or acquiescence to the Examiner's position. Accordingly, Applicants expressly maintain the right to pursue the subject matter of these claims through subsequent amendments, continuation or divisional applications, reexamination or reissue proceedings, and all other available means.

**REJECTIONS UNDER 35 U.S.C. § 102/103**

Claims 20-22 and 24 were rejected under 35 U.S.C. § 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over, Drzal et al. (US 2005/0119371). Applicants respectfully traverse the rejection as follows.

Applicants respectfully submit that the presently claimed invention was conceived and reduced to practice prior to October 15, 2003, the 102(e) date according to the Examiner. In support, this paper is accompanied by a Declaration of the inventors.

As a result, Drzal et al. is not citable prior art under 35 U.S.C. § 102(e) nor under 35 U.S.C. § 103(a). Therefore, it is respectfully submitted that the rejection is moot. Reconsideration and withdrawal of the rejection is respectfully requested.

**REJECTIONS UNDER 35 U.S.C. § 103**

Claims 23 and 26 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Drzal et al. in view of Furihata (U.S. Patent No. 4,465,542).

As mentioned above, Drzal et al. is not citable prior art under 35 U.S.C. § 103(a). Therefore, the rejection cannot stand. Moreover, Furihata does not teach or even hint at a modified epoxy, as recited in claim 23.

Thus, it is respectfully requested that Examiner reconsider and withdraw the rejection of claims 23 and 26 under 35 U.S.C. § 103(a).

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Amendment dated October 22, 2010  
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## **CONCLUSION**

In light of the foregoing, it is respectfully submitted that the objections and rejections set forth in the Office Action have been overcome. Accordingly, Applicant respectfully requests reconsideration of the application in light of the above amendments and remarks, removal of the claim objections, withdrawal of the rejections under 35 U.S.C. §§ 102, 103 and 112, allowance of the pending claims, and prompt issuance of a Notice of Allowance.

Respectfully submitted,

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